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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,383	10/11/2001	Artur Fischer	1794	1289
7590 01/08/2004 STRIKER, STRIKER & STENBY 103 East Neck Road Huntington, NY 11743			EXAMINER GOFF II, JOHN L	
			ART UNIT 1733	PAPER NUMBER
DATE MAILED: 01/08/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/975,383

Applicant(s)

FISCHER, ARTUR

Examiner

John L. Goff

Art Unit

1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 6-9, 11 and 14.

Claim(s) withdrawn from consideration: 12 and 13.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Jeff H. Aftergut
JEFF H. AFTERGUT
PRIMARY EXAMINER
GROUP 1800

Continuation of 2. NOTE:

The proposed amendment will not be entered because the cancellation of claim 12 raises new 35 USC 112 issues in that claims 2-5 depend from claim 12, and if claim 12 is cancelled claims 2-5 must also be cancelled or amended to depend from another claim. Additionally, the claim headings should include the proper identifiers, e.g. Previously Amended should be Previously Presented. If the proposed amendment were submitted again with correction to claim 12 and proper claim identifiers the amendment would be entered. Further, the cancellation of claim 8 would remove the objections to the claims. However, claim 14 as amended would not remove the 35 USC 112 rejections because the claim would require further clarification. Claim 14 (after the proposed amendment) would require a step of "applying starch in liquid form to the other element, thereby joining the toy building block to the other element; using the starch which is dissolved in water". The step of joining the toy building block to the other element does not occur until after the toy building block is triturated and as such it is suggested to move "thereby joining the toy building block to the other element, using the starch which is dissolved in water" to the end of the claim.

Regarding applicants arguments to the admitted prior art, Cho, Dorfman, Sullivan, and Ross, applicant is referred to the response to arguments section (paragraph 12) of the Office Action mailed 9/11/2003.



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